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**OFFICE OF PETITIONS**

In re Application of                  :
Craig Mazzagatte et al.              :
Application No. 09/747,097           :          ON PETITION
Filed: December 22, 2000             :
Attorney Docket No.: 36J.P240        :

This is a decision on the petition filed February 28, 2007 to withdraw the holding of abandonment for the above-identified application which is being treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

In response to a non-Final Office Action mailed May 23, 2005, which set a three month period for reply, petitioners filed an amendment on August 19, 2005. In response thereof, an advisory action was mailed noting that the response failed to place the application in condition for allowance. No reply having been timely filed in response, a Notice of Abandonment was mailed on January 30, 2007.

Petitioner argues that since the office action mailed May 23, 2005 was non-Final and not Final, even if the response was not compliant, the response filed August 19, 2005 was timely and the advisory action should not have issued and therefore the notice of abandonment was erroneously mailed.

The Examiner of record confirms that the office action mailed May 23, 2005 was non-Final. In view thereof, the amendment filed August 19, 2005 was in fact a timely and proper response and the application should not have been held abandoned. The Notice of Abandonment was sent in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 2134 for appropriate action on the amendment filed August 19, 2005 as a proper response to the non-Final Office Action mailed May 23, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
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